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**BIGFOOT OR BIG MISTAKE: IS CBP'S EXPANDING FOOTPRINT HELPING OR
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Christopher M. Seiler

Patrol Agent in Charge

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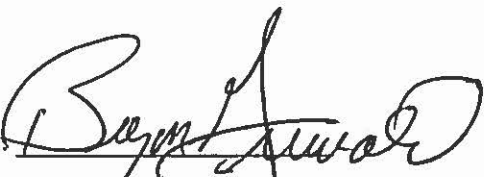
A paper submitted to the Faculty of the Joint Advanced Warfighting School in partial satisfaction of the requirements of a Master of Science Degree in Joint Campaign Planning and Strategy. The contents of this paper reflect my own personal views and are not necessarily endorsed by the Joint Forces Staff College or the Department of Defense.

This paper is entirely my own work except as documented in footnotes.


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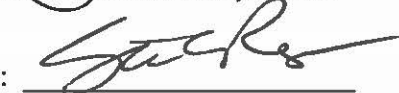
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ABSTRACT

Bad actors and transnational criminal organizations have the ability to move illegal goods, drugs, dangerous materials, and people of interest to the “zero yard line” of the United States. Without a buffer to protect the homeland, limited people, time, and resources exist to identify harmful items and individuals before they enter the U. S. and cause damage. The U. S. has relied on a geographical buffer and a positive relationship with Mexico and Canada in order to maintain our current security. Customs and Border Protection (CBP) has expanded their division of International Affairs to build host country capacity, pre-clearance measures, and increased screening in foreign countries before arriving on the zero line. When it comes to securing the nation from those who would do it harm, CBP’s global footprint is an efficient and effective strategy not only to keep malevolent actors off the “zero yard line,” but out of the “red zone” altogether. However, as with all deployments, these actions incur a fiscal and, unfortunately, human cost as some agents are killed in IED and Blue on Green attacks, leaving some to ask: are such forward deployments worth their cost? Are they the most effective way to secure the U.S.?

DEDICATION

I would like to thank my Thesis advisors, Dr. Bryon Greenwald and Col. Doug Golden, USAF, for their continued assistance and guidance in this academic endeavor. Second, I want to thank my Seminar Two instructors, Col. Kevin Therrian, Professor Dave Rodermill, and Professor Mary Bell for their knowledge, humor, and dedication to making our seminar a success. Lastly, my Seminar Two classmates who have made the academic rigors of JAWS, behind the scenes learning, and off time a lifelong, enjoyable experience.

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INTRODUCTION

Contrary to common perception, the U.S. Customs and Border Protection (CBP) does not just operate border control points and port of entry clearance areas. CBP personnel are deployed globally expanding the boundaries of security and training others to help keep America safe. For example, in 2005, in Asuncion, the capital city of Paraguay, a U.S. Border Patrol Agent spoke to Paraguayan Customs, Navy personnel, and multiple media outlets about Paraguay's importance in the Western Hemisphere's security. Known as the Heart of South America, Paraguay is part of the infamous Tri-Border Region, an area of South America notorious as a cross-roads for terrorists and transnational criminal organizations (TCOs). This stands as a clear example of CBP's strategy to accomplish its mission globally.

Similarly, in support of USCENTCOM, CBP agents deployed with servicemen to Iraq and Afghanistan to assist those nations in providing for their border security while simultaneously enhancing security at home by thwarting the movement of drugs, terrorists, dangerous materials, and human trafficking through those countries. As with all deployments, these actions incurred a fiscal and, unfortunately, human cost as some agents were killed in IED and Blue on Green attacks, leaving some to ask: are such forward deployments worth their cost? Are they the most effective way to secure the U.S.?

Due to the elevated security risk to the United States, U.S. Customs and Border Protection (CBP) is expanding its global footprint overseas to increase the level of security of the homeland, reduce transnational crime, and facilitate trade and travel. This will be accomplished through foreign nation capacity building, pre-clearance measures, and increased screening. This analysis of historical events, current methods, and future threats validates CBP's international mission and recommends additional action to increase U.S. security. When it comes to securing

the nation from those who would do it harm, CBP's global footprint is an efficient and effective strategy not only to keep malevolent actors off the "zero yard line," but out of the "red zone" altogether.

CHAPTER 1

Origins of DHS, CBP, and Expanding Footprint

Borders are heaven, they are nirvana for traffickers and for the illicit networks in which they function.¹

*Michael Miklaucic
Director, Center for Complex Operations*

The morning was just like every other morning; people took their kids to work, others were on their way for their morning coffee, and the United States lived in an isolationist bubble. A new, soon to be appointed, government employee reported for his second day in Washington, DC. Robert C. Bonner had reported for duty, but had yet to be confirmed by the U.S. Senate as the Commissioner for the U.S. Customs. At that time, U.S. Customs resided under the Treasury Department. Commissioner Bonner and the lives of everyone else in the country were about to change indefinitely. At 9:35 am, hijackers flew two commercial airplanes into the World Trade Center in New York City, one into the Pentagon in Northern Virginia, and a fourth planned to fly into the U.S. Capitol. This act of foreign grown terrorism on U.S. soil had horrific effects on the nation with 2,933 innocent lives taken. A number of changes were to come that would reverberate through the rest of U.S. history, including the invasion of Afghanistan and Iraq, the creation of the Department of Homeland Security (DHS), a change in the way the U.S. combatted terrorism, and the loss of a nation's innocence.

Immediately after the attacks, Commissioner Bonner knew that a change in the mission of U.S. Customs Service was essential to the survival of the U.S. Bonner made the dramatic change in the priority mission of Customs from interdiction of drugs and regulation of trade to

¹ Michael Miklaucic and Moises Naim, "The Criminal State," in *Convergence: Illicit Networks and National Security in the Age of Globalization* (Washington, D.C.: National Defense University Press, 2013), 149.

preventing terrorists and terrorist weapons from getting into the United States. This led to a number of changes that will be discussed later in the paper, but the first step was to refocus the agency and personnel as a whole. Commissioner Bonner began his third day with an all hands meeting of U.S. Customs employees worldwide. He emphasized the importance of the attacks and how the priority mission had changed to preventing terrorist and terrorist weapons from entering the United States.² The U.S. had been lulled into a false sense of security by the illusion that the vast oceans that surround the country and its relationship with peaceful neighbors would protect the nation. This idea of containment and mutual deterrence against this type of enemy was obviously not effective; a change had to be made. The United States, under President George Bush, took a three-pronged approach both to fighting the terrorist threat against the U.S. and global terrorism in general. First, the U.S. would go on the offensive and go after the terrorists, their leaders, and the countries that harbor them. Second, the U.S. would have a strong, coordinated defense of the homeland, which led to the formation of the new Department of Homeland Security. Lastly, the U.S. would begin an aggressive information operation campaign to undermine the jihadi message.

Since its founding in 1789, the U.S. Customs Service has guarded the U.S. ports of entry and collected tariffs on goods coming into the United States. In 1924, the U.S. Border Patrol was created primarily to stop illegal entries along the U.S.-Mexico and Canadian International Borders.³ Each agency held a similar mission of protecting the nation's borders, but were under different parent agencies. After the tragedy of September 11, 2001, Congress created the Department of Homeland Security, and both agencies merged to form U. S. Customs and Border

² Robert C. Bonner, "Securing the transnational movement of trade and people in the era of global terrorism." *Strategic Insights*, June 2006, 2-4.

³ U.S. Customs and Border Protection. "About CBP."

Protection (CBP). It is now the mission of CBP “to safeguard America's borders thereby protecting the public from dangerous people and materials while enhancing the Nation's global economic competitiveness by enabling legitimate trade and travel.”⁴ It is now understood by the U.S. government and its citizens that the U.S. must “take the fight” to the people who are attempting to do the U.S. harm. Although on a smaller scale, CBP has a direct parallel to the Department of Defense and the “War on Terror” in order to prevent attacks on the homeland. CBP is expanding into foreign countries to be more effective and keep the bad actors away from U.S. soil.

In order to fulfill the requirements of President Bush’s three-pronged strategy, an aggressive reorganization of the defense of the homeland took place. The formation of the Department of Homeland Security was the largest reorganization of the federal government since 1947. The Homeland Security Act of 2002 (P.L. 107-296) created a framework for the transfer of all or part of 22 different federal agencies into the newly formed Department of Homeland Security (DHS). This included the U.S. Customs Service, U.S. Border Patrol, and U.S. Coast Guard. Title IV of the Act created the Directorate of Homeland Security headed by the Under Secretary for Border and Transportation Security.⁵ The Directorate was tasked with three responsibilities:

- Prevent the entry of terrorists and the instruments of terrorism into the U. S.;
- Ensure the speedy, orderly, and efficient flow of lawful traffic and commerce and;
- Establish the U.S. Customs Service and the office of Customs within DHS.

⁴U.S. Customs and Border Protection, *Vision and Strategy 2020*, (Washington DC: Government Printing Office, 2014), 7.

⁵ Sec. 401 of P.L. 107-296; 6 U.S.C. 70114

The Homeland Security Act directed the President to reorganize the agencies under DHS no later than 60 days from the enactment. This moved personnel, assets, and obligations from the 22 affected agencies into DHS (See Figure 1). Part of this reorganization was the formation of a “One Border Agency” idea, which became U. S. Customs and Border Protection (CBP). In addition, the U.S. Customs Service was renamed the Bureau of Customs and Border Protection (CBP) and was to include the Office of Field Operations (OFO), U.S. Border Patrol (USBP), and later the Office of Air and Marine (OAM).⁶

The Homeland Security Act accomplished a number of goals. First, it abolished a broken Immigration and Naturalization Service (INS), which had issued visas to several of the 9/11 terrorist hijackers six months after the attacks on America. The duties of the INS were divided and streamlined among the new DHS agencies to prevent further mistakes. Second, it combined the personnel from the United States Border Patrol, previously under the Department of Justice, with the U.S. Customs Service and the border inspectors of the U.S. Department of Agriculture under the new CBP banner.⁷ This allowed for one single agency to manage, control, and secure the nation’s borders to include all the official ports of entry and the area between these ports for

⁶ On the establishment of the Department of Homeland Security, see archived CRS Report RL 31549, *Department of Homeland Security: Consolidation of Border and Transportation Security Agencies*, by Jennifer E. Lake; and archived CRS Report RL31493, *Homeland Security: Department Organization And Management—Legislative Phase*, by Harold C. Relyea.

⁷ U.S. Congress, House, Committee on Homeland Security, Reorganization Plan Modification for the Department of Homeland Security, Communication from the President of the United States, House Document 108-32, 108th Cong., 1st sess., February 3, 2003.

the purposes of preventing terrorist and terrorist weapons (bio and agro terrorism included) from entering the country, while promoting legitimate trade and travel.

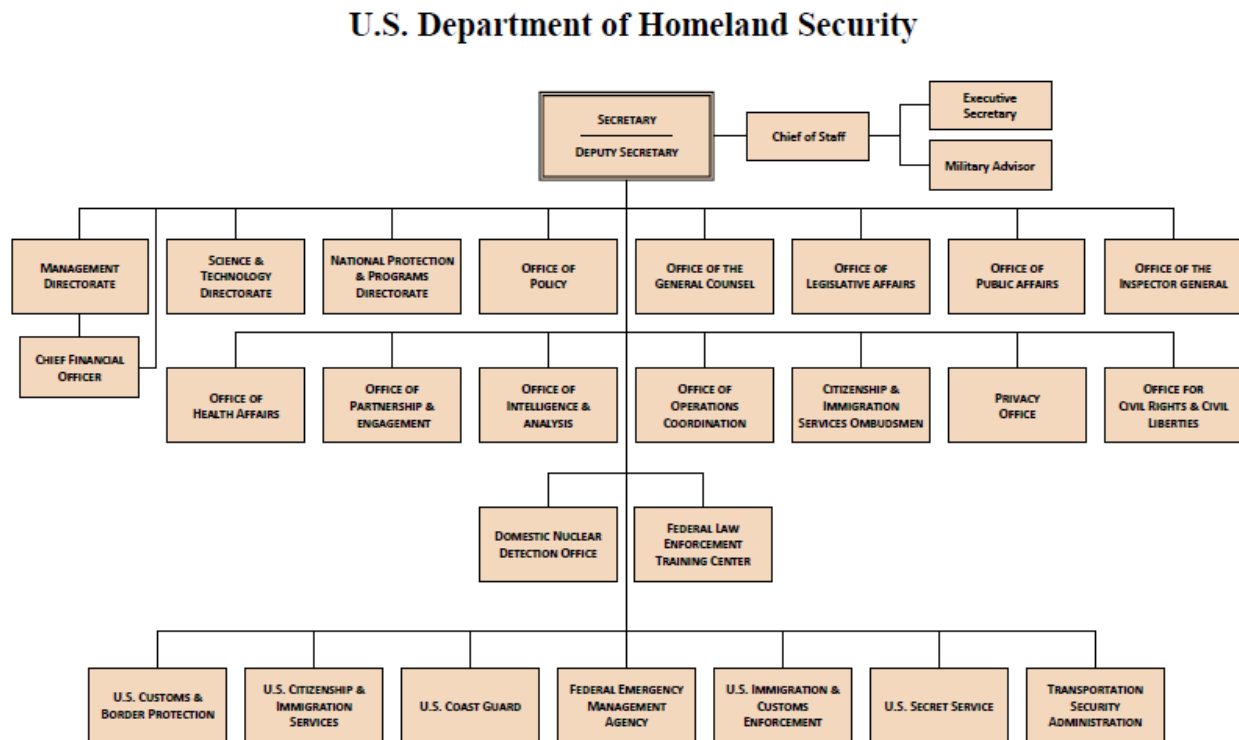


FIGURE 1. U.S. Department of Homeland Security⁸

On an average day, CBP welcomes to the United States on average one million travelers and visitors via land, air, and sea ports of entry (POE's).⁹ As the threats against the U.S. have increased over the last two decades, CBP has had to increase the buffer around the nation and not view the nation's borders as the only line of defense. A new approach being taken in concert with the nation's international partners is to create a multi-layered, intelligence driven strategy. This new strategy encompasses every aspect of CBP's mission and capabilities to ensure safe

⁸ U.S. Department of Homeland Security. "About DHS."
https://www.dhs.gov/sites/default/files/publications/Department%20Org%20Chart_1.pdf

⁹ U.S. Congress. Written Testimony of CBP Office of Field Operations Deputy Assistant John Wagner for House Committee on Homeland Security, Subcommittee on Border and Maritime Security Hearing Titled 'The Outer Ring of Border Security: DHS's International Security Programs. *States News Service*, 2015. *Biography in Context*.

travel for airline passengers from the time a passenger books or purchases a ticket, to inspecting travel documents, at the airport, while in route, and upon arrival in the U.S. POE's or equivalent.

After the events of 9/11, the United States can no longer remain at home; it must go on the offensive and take the fight to the terrorists who attacked the country. The question is, "What is the best way to do this?" A number of theories developed on how best to keep the homeland secure, one technique was through deterrence operations. Deterrence operations convince the adversaries not to take actions that threaten U.S. vital interests by means of decisive influence over their decision making. This influence is achieved by credibly threatening to deny benefits and/or imposing cost, while encouraging restraint by convincing the actor that restraint will result in acceptable outcomes.¹⁰

Customs and Border Protection's capabilities in forward stationed and forward deployed areas enhance deterrence by improving the ability to act in the host nation country, as opposed to being on the zero-line. This forward presence strengthens the role of partners and expands joint and multi-national capabilities. CBP presence conveys a credible message that the U.S. will remain committed to preventing conflict and demonstrates commitment to the defense of the U.S. and strategic partners. This demonstration of U.S. political will and resolve shows that there is opposition to adversary aggression and coercion in the regions that are important to U.S. formal alliances and security relationships.¹¹ These critical relationships are determined by U.S. National Interests and the strategic areas in which CBP can provide the most impact against combatting transnational criminal organizations.

¹⁰ Deterrence Operations, *Joint Operating Concept, Version 2.0* December 2006, 26-28.

¹¹ *Ibid.*, 33.

Chapter 2

Transnational Criminal Organizations: An Evolving Threat

Just as legitimate governments and businesses have embraced advances of globalization, so too have illicit traffickers harnessed the benefits of globalization to press forward their illicit activities.

Admiral James Stavridis

Over the past decade, U.S. officials have learned that one of the biggest threats to national and international security is the development and expansion of Transnational Organized Crime (TCO). As defined by the July 2011 Strategy to Combat Transnational Organized Crime, the term, transnational organized crime, more accurately describes the emerging threat America faces today. As emphasized by the National Security Strategy, "...These threats cross borders and undermine the stability of nations, subverting government institutions through corruption and harming citizens worldwide."¹² The goal of the July 2011 Strategy to Combat Transnational Organized Crime is to reduce transnational organized crime from a national security threat to a manageable public safety problem in the U.S. and in strategic regions around the world. This will be accomplished by achieving five key policy objectives:

- 1) Protect American and our partners from the harm, violence, and exploitation of transnational criminal networks.
- 2) Help partner countries strengthen governance and transparency, break the corruptive power of transnational criminal networks, and sever state-crime alliances.
- 3) Break the economic power of transnational criminal networks and protect strategic markets and the U.S. financial system from TOC penetration and abuse.

¹ U.S. President, *Strategy to Combat Transnational Organized Crime: Addressing Converging Threats to National Security* (Washington DC: Government Printing Office, July 2011), 2-5.

- 4) Defeat transnational criminal networks that pose the greatest threat to national security by targeting their infrastructures, depriving networks of the means which enable them, and preventing the criminal facilitations of terrorist activities.
- 5) Build international consensus, multilateral cooperation, and public-private partnerships to defeat transnational organized crime.²

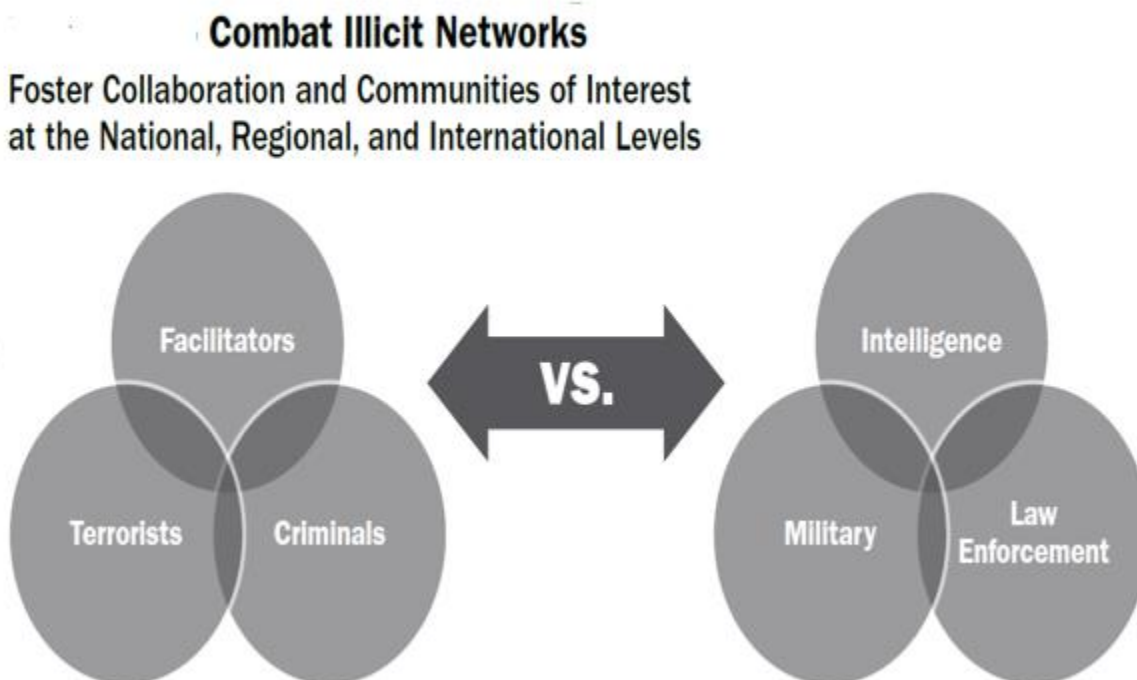


FIGURE 3.

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Bad actors and transnational criminal organizations have the ability to move illegal goods, drugs, dangerous materials, and people of interest to the “zero yard line” of the United States. Without a buffer to protect the homeland there are limited people, time, and resources to identify harmful items and individuals before they enter the U. S. and cause damage. The U. S. has relied on a geographical buffer and a positive relationship with Mexico and Canada in order to

² Ibid.

³ Celina B. Realuyo, “Collaborating to Combat Illicit Networks Through Interagency and International Efforts,” in *Convergence: Illicit Networks and National Security in the Age of Globalization* (Washington, D.C.: National Defense University Press, 2013), 263.

maintain its current security. The attacks on 9/11 proved that the buffer that had protected the U.S. has disappeared. Accordingly, CBP has expanded its division of International Affairs to build host country capacity, establish pre-clearance measures, and increase screening in foreign countries before arriving on the zero line.

CBP's expansion into a number of foreign countries is a bold and potentially dangerous move that could have negative repercussions. There are three major concerns with this expansion:

- 1) Cost. Is it fiscally responsible to have personnel detailed long term or permanently moved to these countries, along with the high cost of training for the employees and host nation personnel? Is it worth human lives and human capital to be deployed overseas as opposed to in the homeland?
- 2) Culturally. Does it have a negative impact on the host nation country and build negative stereotypes of Americans?
- 3) Operational Effectiveness. Does it detract from the mission at home and what is the effectiveness in the U. S. and overseas?

An extensive review of current literature relating to terrorism, transnational crime, and threats to U.S. trade and travel suggests that the expanding footprint is effective in protecting the homeland. These actions have had positive and negative effects on XX, but as interviews with CBP personnel and an in depth analysis of data shows the net effect is to increase America's security.⁴

Fifteen years after 9/11, it is still evident that the fight is not over, but America is making progress as noted in the alignment of missions between the National Security Strategy, the Department of Defense, and CBP. In his 2015 National Security Strategy President Obama

⁴ U.S. Congress. Written Testimony of CBP Office of Field Operations Deputy Assistant John Wagner for House Committee on Homeland Security, Subcommittee on Border and Maritime Security Hearing Titled "The Outer Ring of Border Security: DHS's International Security Programs." *States News Service*, 2015. *Biography in Context*.

wrote that, “our obligations do not end at our borders,” that the U. S. must “uphold our commitment to allies and partners,” and that “fulfilling our responsibilities depends on a strong defense and secure homeland.”⁵ President Obama’s message was previously laid out in the Quadrennial Defense Review 2014 for the priorities of the Department of Defense illustrating its importance. The Department’s strategy empathized three pillars:

- Protect the homeland, to deter and defeat attacks on the United States and to mitigate the effects of potential attacks and natural disasters.
- Build security globally, preserve regional stability, deter adversaries, support allies and partners, and cooperate with others to address common security challenges.
- Project power and win decisively to defeat aggression, disrupt and destroy terrorist networks, and provide humanitarian assistance and disaster relief.⁶

The three pillars of the Department of Defense (DOD) compliment the mission of Customs and Border Protection (CBP) and work in concert for a whole of government approach to protect U.S. national interests and security.

After the creation of DHS and the reorganization of CBP, the next step was to go on the offensive and extend the U.S. zone of security to interdict and deter threats on foreign soil as far away from the homeland as possible and to not allow the U.S. border to be the zero yard line. This was accomplished through expanding the global footprint and improving three critical areas: 1) Enforcement, 2) System and technology upgrades, and 3) Training. All of this needed to take place on foreign soil with the assistance and agreement of the host nation.⁷

⁵ U.S. President, national Security Strategy (Washington DC: Government Printing Office, February 2015), 8.

⁶ Quadrennial Defense Review, (Washington DC: Government Printing Office, May 2014), 4.

⁷ Robert Bonner. "Securing the transnational movement of trade and people in the era of global terrorism." *Strategic Insights Series*, June 2006, 18-19.

CHAPTER 3

CBP's Expanded Footprint and How to Protect the Homeland

To extend the zone of security away from the homeland, CBP implemented a new risk based layered approach. This new strategy employed innovative pre-departure security efforts before people or products departed their foreign ports. One of the key supporting capabilities is the National Targeting Center (NTC), which receives advanced passenger information identifying potential risks at the earliest time possible. CBP then works in concert with the host nations including those in Europe, North Africa, and the Middle East to provide greater situational awareness for host countries. The information provided and generated by the NTC can be utilized by CBP's overseas enforcement programs, Pre-clearance Immigration Advisory, and Joint Security Programs and Regional Carrier Liaison Groups to combat threats before they occur (these programs will be addressed in more detail later). The NTC, utilizing a whole of government approach, works closely with their parent agency, DHS and components, the Department of State, Department of Defense, and the Intelligence community to leverage all the assets, jurisdictions, and authorities to identify and address these security threats.¹

Although CBP's expansion has been successful, there have been some friction points that are continually being reworked. In December 2001, DHS Secretary Tom Ridge and Canadian Deputy Prime Minister John Manley signed the "Smart Border" Declaration and associated 30-point action plan to enhance the security of our shared border while facilitating the legitimate flow of people and goods. Some of the associated 30 point actions items included clearance away

¹ U.S. Congress. Written Testimony of CBP Office of Field Operations Deputy Assistant John Wagner for House Committee on Homeland Security, Subcommittee on Border and Maritime Security Hearing Titled "The Outer Ring of Border Security: DHS's International Security Programs." *States News Service*, 2015. *Biography in Context*.

from the border, immigration officers overseas, and international cooperation. Since the implementation of the Bush Administration strategy of smart borders there has been resistance by some countries, especially in Europe.² The international community argued that the U.S. imposed new rules on their airlines, people, and countries. The use of biometric identifiers are viewed as an intrusion on Europeans' personal data. Another debate that arose was the extra cost to the private sector because of the newly implemented extensive controls on container security. A number of other challenges that have been identified, including legal challenges concerning extraterritorial laws, internal politics within strategic partners, and implementing processes in the private sector. The Transatlantic shift and cooperation with Europe needs to be more thoroughly developed for both to mutually benefit from a global homeland security network.³

Extending the Zone of Security/Targeting and Detecting Risk (Whole of Governments Approach)

CBP extended the zone of security for the homeland using a risk based, layered approach that pushes the U.S. border security efforts outward to detect, assess, and mitigate risks posed by travelers, materials, or other threats before they reach the borders of the U.S. The Pre-departure process integrates multiple levels of capabilities and programs that form an overlapping strategy along the travel cycle of passengers and cargo. This strategy ensures that threats are detected as early as possible, while assisting the host nation country by ensuring they are also kept safe.⁴

Working through the pre-departure process and throughout the international cycle, CBP is

² Gerhard Peters and John T. Woolley, "Summary of Smart Border Action Plan Status." *The American Presidency Project*, September 9, 2002. <http://www.presidency.ucsb.edu/ws/?pid=79762> Online by Gerhard Peters and John T. Woolley (accessed December 27, 2016).

³ Patryk Pawlak, "Transatlantic homeland security cooperation: the promise of new modes of governance in global affairs." *Journal of Transatlantic Studies* 8, no. 2 (Summer 2010): 139-157.

⁴ *Congressional Research Service, U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by the Congressional Research Service, March 2013 (Washington, DC: Government Printing Office, 2013), 28-40.

working with the host nation, foreign partners, and other U.S. government agencies. CBP works closely with the other components of the Department of Homeland Security (DHS), the Department of State (DOS), the Department of Defense (DOD), and the intelligence community to ensure that all assets and resources are leveraged and emerging threats are identified early. On a daily basis, CBP personnel from the National Targeting Center (NTC), work with our partners in Europe, North Africa, the Middle East, and those from the Five Eyes countries (U.S., United Kingdom, Australia, Canada, and New Zealand). Specifically, two major processes can be impacted through the extended zone of security: passenger measures and cargo measures. Both have different threats to the security of the homeland and will be broken down for a more close examination.

Passenger Measures

Passenger identification and travel security has always been a security risk/concern for customs agencies all over the world. The risk of hijackings in the 1980s and the use of a plane as a weapon on 9/11 illustrated how the system needed to be greatly improved. A number of new measures were implemented to make passenger travel more secure.

Visa and Travel Authorization Security

One of the first steps in legal, international travel is to obtain the proper documents to travel abroad. This means applying for a passport, visa, travel authorizations, and the proper boarding documents. Most foreign nationals must apply for a non-immigrant visa through a U.S. Embassy or Consulate. The burden of the visa application and adjudications process lies within the Department of State, however, CBP also conducts vetting of these visas. CBP does this through the National Targeting Center and continuously vets non-immigrant visas that have been

issued, revoked, or denied. If a traveler's status changes, this rechecking ensures the traveler will not be allowed to board the conveyance. This is accomplished through heightened screening efforts with U.S. Immigration and Customs Enforcement (ICE) and the Department of State (DOS). An enhanced, automated screening system continually monitors the traveler's life cycle through their travel process. This has revolutionized and streamlined the way the U.S. government can monitor foreign nationals looking to enter the U.S. This process is a precursor system and works in tandem with DOS Security Advisory Opinion (SAO) and Advisory Opinion (AO) programs. The collaboration of the three agencies ensures the broadest of jurisdictions, authorities, expertise, and technologies to examine every passenger a number of times and through their travel.⁵

Pre-Clearance Operations

Pre-Clearance operations are CBP's highest level of overseas ability to detect, prevent, and apprehend individuals on foreign soil prior to departure for the United States. Inspection and clearance of commercial passengers overseas ensures the U.S.'s extended border strategy. This is accomplished through uniformed CBP officers with legal authority to question and inspect travelers and luggage in foreign airports. The officers complete the same immigration, customs, and agricultural inspections of passengers at foreign airports as are performed at domestic ports of entry. Passengers that are found inadmissible at the gate are not allowed to board the aircraft and travel to the U.S. This also provides cost savings to the USG because the cost of returning the individual is no longer needed. In Fiscal Year 2014, this saved approximately \$50 million dollars and kept air travel safer.⁶ Passengers that do pass inspection abroad are not required to

⁵ "The Outer Ring of Border Security: DHS's International Security Programs." *States News Service*, 2015.

⁶ Ibid.

pass any other inspection requirements upon arriving at a U.S. airport. This decreases time and increases efficiency for travelers, carriers, and airports.

Pre-clearance operations are currently in Canada, Ireland, The Bahamas, Aruba, and the United Arab Emirates. In 2014, CBP officers pre-cleared 17.4 million travelers, which accounted for 21% of all commercial aircraft inbound to the U.S. from the participating countries. Most importantly, with the respect to terrorist threats from the Middle East, the UAE receives flights from Yemen, Morocco, Nigeria, Kenya, Ethiopia, Sudan, Saudi Arabia, Pakistan, Iraq, Lebanon, Bangladesh, and India enroute to the U.S. All of these countries are high-risk pathways for terrorist travel and terrorists from these countries seek to utilize the UAE to bypass other security measures for entry into the U.S. and Europe. CBP officers in pre-clearance country airports are enabled with technology, access to data bases, and granted full inspection authority with regard to travelers and baggage. If discovered to be questionable by CBP personnel and in need of additional screening, individuals can be further investigated by DHS's Homeland Security Investigations (HSI) or the Federal Bureau of Investigation (FBI) in the host country or once arriving in the U.S.

Immigration Advisory Program (IAP) and Joint Security Program (JSP)

Two additional levels of the layered approach to passenger security before boarding the plane include the Immigration Advisory Program (IAP) and the Joint Security Program (JSP). These programs use advanced information from the NTC to identify possible terrorists and high-risk passengers. CBP Officers are posted at major gateway airports in Western Europe, Asia, and the Middle East, including Amsterdam, Frankfurt, London, Madrid, Paris, Tokyo, Mexico City, Panama City, and Doha. The CBP Officers work with the host nation countries to identify passengers linked to terrorism, narcotics, weapons, and currency smuggling. Once an individual

is identified, officers issue a no-board recommendation to the commercial carriers, which prevents the improperly documented travelers from boarding flights destined for the U.S. One limit to the program is that the officers do not have the legal authority to require the air carrier not to allow the passenger on the flight. Therefore, cooperation between the host nation, the airline, and the CBP officers is a must for the program to succeed. The recommendations are generally accepted and followed by the airlines.

CBP Carrier Liaison Program (CLP)

All of the weight of secure air travel does not fall on CBP alone. The commercial airlines and CBP realize that the safety of their passengers is important to everyone and developed the Carrier Liaison Program (CLP). Specially trained CBP officers train commercial air carrier participants to identify, detect, and disrupt improperly documented passengers. This process can identify passengers in-flight for further inspection upon landing and have their fraudulent documents removed from circulation. Since the start of the program, CBP has provided training to more than 34,800 airline industry personnel. This program, along with host nation participation, exponentially increases the number of people watching for illegal activity and improves the security of the passengers and homeland.

The Pre-Departure

Pre-Departure Targeting starts well before the passenger arrives at an airport attempting to enter the U.S. When a traveler books a ticket to travel to the U.S. a Passenger Name Record (PNR) and Advance Passenger Information System (APIS) entry is generated in the airlines' reservations system. This information includes itineraries, co-travelers, changes to the reservation, and payment information. This information is then cross-referenced with criminal

history, records of lost or stolen passports, public health records, visa refusals, prior immigration violations intelligence reports, law-enforcement data bases, and the Terrorist Screening Database (TSDB). Pre-Departure Targeting can prohibit someone from boarding the plane. If permitted to travel, further investigation continues while in-flight in order to provide more inspection upon entry to the U.S.⁷

In addition, if fraudulent, counterfeit, or altered travel documents are discovered, the documents are removed from circulation and sent to CBP's Fraudulent Document Analysis Unit (FDAU). The FDAU is a central depository and analysis center for seized documents. The FDAU can provide intelligence, alerts to field operations, and up to date pertinent training for field units on current tactics, techniques, and procedure for fraudulent documents. These functions along with removing the fraudulent document and the detaining the traveler provide another layer of enforcement along with prevention of future misuse.

Arrival Processing and Trusted Travelers

CBP's layered approach not only provides additional layers of enforcement, but also identifies low-risk travelers to facilitate speedy travel. CBP's Global Entry Program provides for expedited processing upon arrival in the U.S. for pre-approved, low-risk participants. This is accomplished through the use of secure Global Entry kiosks that have machine-readable passports technology, a fingerprint scanner, along with a complete customs declaration. Once approved, the traveler is issued a transaction receipt and directed to the baggage claim and the exit. In order to be a member of the Global Entry Program a rigorous background check and in-person interview is conducted before enrollment. Any violation of the program's terms and

⁷ Ibid.

conditions results in termination of the traveler's privileges and appropriate enforcement measures.

Cargo Measures

The second element and equally dangerous to national security is the risk of dangerous goods and material coming into the country. Weapons of mass destruction coming into the country without being detected, human smuggling, and legitimate trade with customs not being documented or paid all present significant risk and potential cost to the U.S. The following portion of the paper will illustrate how CBP's expanded footprint mitigates and identifies these concerns.

Container Security Initiative (CSI)

The Container Security Initiative (CSI) is a collaboration between CBP, Immigrations and Customs Enforcement (ICE), and host nation law enforcement agencies in CSI countries. Advanced Cargo data and high-risk containers are identified by the Nation Targeting Center (NTC) in Virginia. The identified high-risk containers are tested for radiation by Non-Intrusive Inspection (NII) scanning in the foreign ports. CBP personnel located in the host nation ports along with the host nation law enforcement agencies evaluate the results. If the results are abnormal, the U.S. and host nation agents conduct a physical inspection of the container before it is loaded on a U.S. bound ship. The Container Security Initiative is currently operational in 58 ports in 30 countries around the world. This accounts for 80% of incoming cargo flowing into the U.S. Approximately 1% of the cargo passing through CSI-participating nations is scanned

using radiation detection technology and NII scanning before being loaded and shipped to the U.S.⁸

Non-Intrusive Inspection (NII) Technology is equipment that enables CBP to detect contraband and materials that pose potential nuclear and radiological threats. The technology includes large X-ray and Gamma-ray imaging systems, as well as portable and hand held devices. More specifically, this includes, Radiation Portal Monitors (RPM), Radiation Isotopes Identification Devices (RIID), and Personal Radiation Detectors (PRD).⁹

Upon initial viewing 1% may not appear very effective and may seem to put the homeland in danger; however, the SAFE Port Act requires that 100% of cargo containers passing through U.S. POEs be scanned for radioactive material prior to being released from port. This is accomplished through choke points where all cargo is scanned with drive-through portals at U.S. ports. The radiation detection portals only need a few seconds per container to be effective. If a monitor is triggered, further tests with other technology or physical inspection are conducted. After being identified, the cargo is either released or the radioactive material is removed and further investigation into the shipper is conducted.¹⁰

⁸ CBP Office of Congressional Affairs, August 23, 2012.

⁹ U.S. Customs and Border Protection, Fact Sheet, Non-Intrusive Inspection (NII) Technology.

¹⁰ *Congressional Research Service, U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by the Congressional Research Service, March 2013 (Washington, DC: Government Printing Office, 2013), 28-40. CBP Office of Congressional Affairs, August 23, 2012.

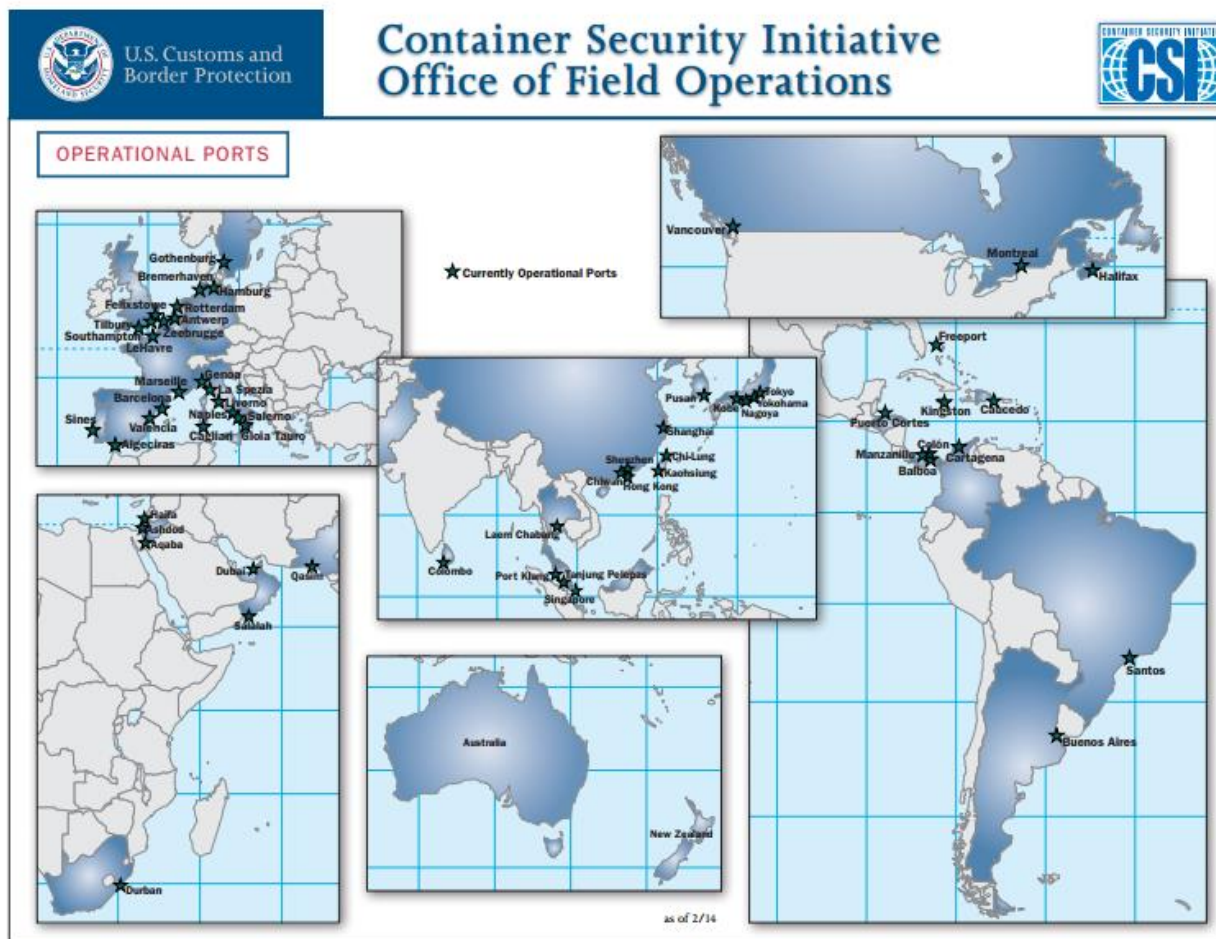


FIGURE 3.

11

Advise and Train

CBP Attachés

Custom and Border Protection has also included CBP Attachés and International advisors in multiple countries around the world to increase the layered approach and to assist our international partners in capacity building programs. Attachés are posted in U.S. embassies and consulates in foreign host nations and work closely with U.S. partners and with the host nation government entities. CBP personnel work closely with U.S. investigative and intelligence

¹¹ Ibid. U.S. Customs and Border Protection.

personnel and advise the U.S. Ambassador and agencies of CBP programs and capabilities. These attachés assist in bridging the gap between the U.S. government and host nation governments in the previous mentioned programs in which necessitate host nation cooperation. International advisors typically are embedded with U.S. Department of Defense (DOD), other U.S. government agencies, or with the host nation border agencies. The advisors serve as consultants and trainers on international migration issues, infrastructure modernization, contraband detection, and interdiction. These operational relationships with the interagency and international partnerships are vital to the overseas footprint and effectiveness for U.S. and host nation security.¹²

International Advisors

The U.S. military and government civilians are often tasked with providing stability operations to countries with which the U.S. has strategic relationships or that have asked for assistance. Local police play a unique role in the reconstruction of a democratic government. Foreign militaries can suppress violence and battle crime, but it is better left to law enforcement professionals. Local law enforcement can win the allegiance of the population on behalf of the local government and bring stability back to a region. The professional manner of the local police reflects the character and capacity of the government that is being reformed and reconstructed. Therefore, the police can provide crucial information when dealing with violent political factions and demonstrate to the local populace that the government is worth supporting.

¹² "The Outer Ring of Border Security: DHS's International Security Programs." *States News Service*, 2015.

Secondly, they provide security for the citizens of that country. If the local populace does not feel secure, education, employment, and economic development are in jeopardy.¹³

U.S. Customs and Border Protection agents are deployed to countries on six of the seven continents, excluding Antarctica, to provide training and technical advice to foreign host nations. The role of the adviser can range from advising General David Petraeus in Afghanistan on how best to secure the Afghanistan/Pakistan International border; to providing tracking skills to Federal Park Rangers in Kenya to combat poaching; to technical assistance on safeguarding containers with Non-Intrusive Inspection equipment in Spain. CBP personnel are deployed all over the world for differing reasons and deployment durations. However, they all offer a very valuable service to the host nation country, enable CBP to expand its ring of influence, and provide added security for the homeland.

¹³ David H. Bayley and Robert Perito, *The police in war: fighting insurgency, terrorism, and violent crime*. (Boulder: Lynne Rienner Publishers, 210), 150.

Chapter 4

Challenges

Any type of operation or overseas deployment has a cost-benefit analysis and naysayers who think that operation is too expensive or not effective enough for continued use. As briefly highlighted in Chapter Two, there are a number of counter arguments as to why CBP should not be deployed overseas and should remain in the homeland. Budgetary concerns, cultural issues, operational effectiveness, and complexity of the problem (as seen below) are the major issues that have been offered as to why CBP's footprint should not be expanded. Because the Department of Defense is a much larger organization and has more background with such issues, the parallels, as mentioned earlier in this paper, will be analyzed along with other references for a defensible counter argument.



FIGURE 4.

1

¹ Michael Miklaucic, and Moises Naim. "The Criminal State," in *Convergence: Illicit Networks and National Security in the Age of Globalization* (Washington, D.C.: National Defense University Press, 2013), 150-151.

Budget Constraints

As with any operation, agency, or department, one's budget is what drives the ability to complete the mission. In the last 15 years, the U.S. has been involved in two very costly wars in Afghanistan and Iraq costing roughly \$ 4.8 trillion. This figure includes: direct Congressional war appropriations; war related increases to the Pentagon base budget; veteran care and disability; increase in the homeland security budget; interest payments on direct war borrowing; foreign assistance spending; and estimated future obligations for veterans' care.² Although CBP's overall budget is only a fraction of that, it still affects the overall budget of the U.S. Government and contributes to the budget constraints on all departments and agencies. The budget of CBP in 1995 was \$1.4 billion. After the attacks of 9/11, by 2006, the budget had almost quadrupled to \$4.7 billion.³ For 2017, the proposed CBP budget is \$13.9 billion. This is a considerable increase in funding for manpower, technology, and infrastructure. Within that number are the numerous personnel and operating costs needed to train, house, and protect the agents that are stationed overseas.

On May 29, 2015, Department of Homeland Security (DHS) Secretary Jeh Johnson announced DHS's intention to enter into negotiations to expand air pre-clearance to ten new foreign airports, located in nine separate countries. In 2014, nearly 20 million passengers traveled from these ten international airport to the U.S. As discussed earlier, preclearance allows for the complete inspection of the individual before boarding the flight. More than 16 million individuals traveled through one of CBP's pre-clearance locations in Canada, Ireland, the

² Watson Institute for International and Public Affairs, "Costs of War," Brown University, <http://watson.brown.edu/costsofwar/figures/2016/us-budgetary-costs-wars-through-2016-479-trillion-and-counting> (accessed December 28, 2016).

³ Harold Kennedy, "Border Security," *National Defense*, Vol. 91, Issue 632, (July 2006): 47.

Caribbean, or the United Arab Emirates in FY 2015. CBP's goal by 2024 is to process 33 percent of the U.S. bound air travelers abroad, before they ever board an airplane. The Consolidated Appropriations Act of 2016 (Pub. L. No. 114-113) provided the up-front appropriations that CBP may use to cover costs of pre-clearance operations until reimbursements are collected. The intent of this program is for reimbursements to help fund the cost of the program. These reimbursement come from airport operators. As of FY 2017, CBP has not collected any of the reimbursements from foreign airports. This, of course, may change in the future, but with the perception of the deep pockets of the U.S. government, foreign airports have been reluctant to pay to have U.S. CBP agents in their airports conducting security checks on the their citizens before departing. At issues is whether those agents and funding for them would be better utilized in the U.S. where there is positive control and better access to needed technology to conduct 100% checks. Having an effective number of agents deployed internationally performs a number of deterrence phases to the security of the homeland and increases the security of the host nation partners. The U.S. funds the CBP officers and the host nation covers the pre-clearance operations. With increased security, lower wait times for passengers, and increased throughput of cargo, the host nation is more effective and efficient. Ultimately, this program has proven to be successful and should remain, however, efforts must be increased to collect reimbursements.

Cultural Issues

Cultural issues that can provide obstacles to overseas deployment and combatting transnational criminal organizations are both external (host nation) and internal to the U.S. agencies countering these organizations. Networks of criminal organizations, terrorists, and smugglers are not a concept new to the 21st century; they are as old as man himself. The new

and emerging issues with these networks are their ability to globalize and the U.S. ability to counteract them. The methods for smuggling are no longer simple trails with donkeys loaded with illegal goods. Globalization has increased the quantity and speed at which items can move. Because of the international networks and number of players there is a lack of data regarding the operations and structures of these networks. If data is available, the networks are so complex that the computer models, testing, and tools do not have the technical capability to interpret them. This conceptual underdevelopment of the study of illicit networks and organizations is one of the core problems and provides for an enormous vacuum to counteract them.

Sociologists, criminologists, and anthropologist all perceive transnational criminal organizations as differing phenomena. Sociologist view these organizations from a model based on their discipline, emphasizing the dynamics of collective human behavior. Criminologists tend to view transnational crime as an extension of individual criminality, best left to law enforcement agencies. Anthropologists, political scientists, and international relations specialists perceive the phenomenon through their colored lenses, which are also conflicting. These academic conflicts inevitably lead to conceptual confusion, competing models, and interdisciplinary competition for a definition of what transnational criminal organization are and how to combat them.⁴

This academic confusion also bleeds over into the operational aspects of combatting international transnational criminal organizations. Lawyers will see them differently from law enforcement professional, who will see them differently from Department of Defense personnel. All have a vested interest in their niches and agendas. The number of agencies that are attempting to combat transnational crime are as numerous and varied as the networks they are

⁴ Ibid. Miklaucic, and Naim. 150-151.

attacking. Each organization has its own organizational culture, methods, authorities, jurisdictions, and idiosyncrasies. Just a few of the organizations who are involved in the effort to counter the illicit networks are: the State Department, Department of Defense, Department of Justice, Department of Homeland Security, and the Treasury Department. These parent organizations are further broken down into the Federal Bureau of Investigation; the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; and the U.S. Customs and Border Protection. To further complicate issues, various intelligence agencies are involved, including the Central Intelligence Agency, Defense Intelligence Agency, and each of the DHS agency intelligence offices. Law enforcement organizations understand their role as building criminal cases and prosecuting the individual or organization in a court of law. Whereas military organizations tend to view the challenges in terms of battle campaigns and strikes. The problem of information sharing between organizations is also extremely difficult because of classifications and internal relationships. The differences that have been discussed above are just a few of the problems preventing effective cooperation and the ability to be successful against the transnational criminal networks.⁵

Even more complicated can be the relationship between host nation countries with respect to each other and with the United States. These aforementioned conceptual seams create differing perceptions of illicit networks and illicit commerce within multilateral and bilateral efforts to combat transnational crime. Some nation-states view narcotic trafficking as a demand problem, while others view it as a supply problem; counterfeiting can be seen as a violation of international law or, it may be viewed as a jobs program and method to inject money into the system. National borders are what create price differentiation and supply and demand issues that

⁵ Ibid., 150.

drive the profits of illegal commerce. Borders also provide a safe haven for criminals, terrorists, and illicit networks to hide within. The laws of the nation-state, differences in sovereignty, and border seams allow for the constant jumping back and forth between countries. This creates jurisdictional nightmares for governmental agencies working to combat illegal activities. So while borders are very confining and necessary for national sovereignty, they allow for traffickers to justify their existence, protect them, make their way of life possible, and allow their business to be profitable.⁶

Operational Effectiveness

There are three conceptual delusions regarding transnational criminal networks that influence the way nation-states, law enforcement, defense departments, and civilians combat them. The first is the attitude that crime is crime, and it has been around since the beginning of time, and there is nothing new out there. This is the wrong way to view the problem. The velocity and magnitude of illicit commerce today are unprecedented, representing between 2 to 25 percent of global products.⁷ That amount of illicit goods greatly contributes to a culture of corruption, physical threats against nation states, and the loss of billions of dollars in legal taxes and tariffs. Secondly, illicit networks and transnational crime are often viewed as just about crime and criminals. If the problem is dealt with in a traditional way, with the typical institutions of law enforcement, courts, and jails, the problem will not be solved. The challenge is with the public institutions, and integrity of public administration and their ability to provide incentives and reinforce the value of service to the state. This needs to be a grassroots effort that starts in the schools, churches, homes, and communities through media and with the application of

⁶ Ibid., 151-152.

⁷ Ibid., 152.

incentives and disincentives. Lastly, the individuals involved cannot be regarded as criminals and deviants. Cesare Lombroso, a 1900th century Italian criminologist, argued that criminal nature is inherited and represents a regression from normal human development. His theory of anthropological criminology does not apply and these criminal individuals are only a product of their situation.⁸ Just because one is a criminal does not necessarily mean he is a deviant.

Approximately 8 to 10 percent of China's gross domestic product is associated with the manufacturing and sale of counterfeit goods. Even more alarming, sixty percent of Afghanistan's gross national product comes from the cultivation, production, and distribution of the poppy.⁹ Utilizing these two examples and noting the number of people who are involved in the transnational networks, are they guilty of breaking criminal statutes and deviants or just trying to provide for their families? This only adds to the complexity of the problem, who to arrest, and how to attack it.

As discussed earlier in this paper, deterrence is the primary method CBP utilizes to combat transnational crime. By utilizing multiple checks and layered security, the bad actors know it is almost impossible to avoid detection through the common channels that they would commonly move people or illegal goods. For this reason they must utilize other, more expensive, dangerous paths. These commodity chains often span significant geographic areas and require multiple steps, payments, and individuals to be successful. Those who often move the products do not have direct access to money laundering, hawala networks, or transportation networks for the profits of these commodities. Payments are made with cash, weapons, drugs,

⁸ David Horn, *The Criminal Body: Lombroso and the Anatomy of Deviance*, (New York: Routledge 2006), 18.

⁹ Ibid., Miklaucic, and Naim, 150.

chemicals or other materials that are deemed valuable to the network.¹⁰ This creates huge losses and complexities in the chain and makes the transportation of illicit goods and people very difficult.

The true issue with deterrence operations, whether in Department of Defense or U.S. Customs and Border Protection operations, is that there is no true way of knowing if deterrence is effective. The previous paragraphs illustrate how deterrence operations are intended to work and cause discomfort and confusion for transnational criminal organizations. However, there are no measures of effectiveness on the quantity of an illegal good or the number of people that are still making it into the U.S. without inspection. At best, it is estimated that only one third of all illegal aliens and illicit material are being interdicted. Some argue that CBP personnel and resources would be better allocated in the homeland where interdictions and arrests can be better measured and personnel are playing on their home turf.

Measuring direct and indirect impacts to transnational crimes require a great number of assumptions, data, and models that cannot totally be understood because of the size and complexity. However, using the United Nations Office of Drugs and Crime (UNODC's) model for impact of illegal markets it is estimated that the total amount for illegal drugs, human trafficking, excised goods, environmental crimes, and counterfeits can reach the \$1.5 trillion in direct and indirect effect on society.¹¹ With those facts it is important for CBP to do everything

¹⁰ Douglas Farah, "Fixers, Super Fixers, and Shadow Facilitator: How Networks Connect," in *Convergence: Illicit Networks and National Security in the Age of Globalization*, (Washington, D.C.: National Defense University Press, 2013), 75-76.

¹¹ Justin Picard, "Can We Estimate the Global Scale and Impact of Illicit Trade" in *Convergence: Illicit Networks and National Security in the Age of Globalization*, (Washington, D.C.: National Defense University Press, 2013), 57.

in its power to combat these issues. Providing deterrence in foreign countries to increase the chance of seizures and the arrest of individuals is well worth the effort, risk, and funding.

Chapter 5

Recommendations and Conclusion

Recommendations

This paper has outlined the benefits of CBP's expansion overseas and will provide recommendations on how that expansion can continue and improve both the host nation and the U.S.'s national security. The first recommendation is to continue the assessment of the countries in which CBP is invested. The Assistant Commissioner of International Affairs, Mark R. Koumans, twice a year has either a face-to-face or a secure video teleconference meeting with all of the CBP attachés worldwide to discuss the status of CBP, the impact it is having in those host nations, and if continued engagement is needed. These semi-annual assessments ensure that CBP's personnel and budget are utilized wisely and effectively. The agency and the attachés are flexible and adaptable enough that if they need to return to the U.S. it can be accomplished rather quickly.

Second, CBP should continue and expand its overseas short term deployment to countries that request assistance. The Border Patrol Special Operations Group needs to continue to send teams to countries that need assessments. Short term deployment teams are able to assess what a country's border enforcement capability and capacities are and how to improve them. The gaps could be in hiring, initial training, leadership, and or technology and infrastructure. Although most countries do not have the financial abilities to train, equip, and provide infrastructure similar to the U.S., small improvements in training, tactics, and procedures can greatly influence one's ability to be more effective.

Lastly, the Office of Field Operations needs to engage the CBP Office of Trade to continue and expand their international operations and advisement. Enforcement is only half of the CBP mission, the other half is the facilitation of trade and travel. CBP personnel need to engage individuals in transit to the U.S., container security initiatives, and trade procedures. The U.S., if needed, could lock the border down so no one could enter or depart. This idea, however, is not conducive to the American way of life both for personal travel and for the goods the U.S. imports and exports. There needs to be a balance between travel and trade and enforcement and interdiction.

Conclusion

This paper has outlined the events that led to the formation of the Department of Homeland Security and U.S. Customs and Border Protection, the damage that transnational criminal organizations can do to U.S. national interests and security, how CBP's expanding footprint is assisting with the security of the homeland, the challenges and counter-argument to CBP's expansion, and finally recommendations for expansion of overseas operations to further the efficiency and effectiveness on the CBP mission. Both sides of the original thesis question: Bigfoot or big mistake: Is CBP's expanding footprint helping or hurting homeland security? have been addressed. CBP International Affairs is only a small part of DHS and an even smaller part of the giant U.S. government. However small of a portion of the government it is, CBP International Affairs plays a major role in the whole of government approach to securing the U.S.'s national interests and security. It is vital to national security that CBP continue to be deployed and engaged overseas.

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VITA

Mr. Christopher M. Seiler, (DHS/CBP) is the Patrol Agent in Charge serving in the U.S. Border Patrol. He began his career in 2001 in San Diego Sector. In 2005 he became a member of the Border Patrol Tactical Unit (BORTAC) and served on numerous overseas assignments, including Iraq. In 2008 he was promoted to Supervisory Border Patrol Agent in Imperial Beach, CA. He became an Assistant Attaché in Kabul, Afghanistan for CBP International Affairs from 2011-2013. Following his service as an attaché he was promoted to Operations Officer at the U.S. Border Patrol Headquarters in Washington, D.C., where he was later promoted to Assistant Chief in 2013. His most recent command is the Patrol Agent in Charge of the Special Operations Detachment in McAllen, TX. Mr. Seiler has a B.S. in Criminal Justice and a Master's Certificate in Advance International Affairs.